

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Julia Moran	Team: Squad #6	CCRB Case #: 202004051	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Wednesday, 06/03/2020 9:05 PM	Location of Incident: East 50th Street between Lexington Avenue and 3rd Avenue	Precinct: 17	18 Mo. SOL 12/3/2021	EO SOL 5/4/2022	
Date/Time CV Reported Sat, 06/06/2020 5:41 PM	CV Reported At: CCRB	How CV Reported: On-line website	Date/Time Received at CCRB Sat, 06/06/2020 5:41 PM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. Officers			

Officer(s)	Allegation	Investigator Recommendation
A. Officers	Force: Officers used physical force against an individual.	
B. Officers	Force: Officers struck an individual with a baton.	

## Case Summary

On June 6, 2020, § 87(2)(b) filed a complaint online with the CCRB.

On June 3, 2020, at approximately 9:05 p.m., § 87(2)(b) was in his apartment, located at § 87(2)(b) in Manhattan when he observed a male individual run west on 50<sup>th</sup> Street, from 3<sup>rd</sup> Avenue toward Lexington Avenue. At least three or four uniformed officers chased after the individual. The individual ran for a few seconds before PO1 tackled him (**Allegation A: Force**, § 87(2)(g)). § 87(2)(b) did not know if any officers said anything. One or two additional officers then piled atop the individual (within Allegation A). At least two officers then struck the individual with their batons, while the individual lay face down on the sidewalk (**Allegation B: Force**, § 87(2)(g)). Officers arrested the individual. § 87(2)(b) did not see what happened following that apprehension.

There was no BWC or TARU footage obtained of this incident (BR 1-3).

## Findings and Recommendations

**Allegation (A) Force: Officers used physical force against § 87(2)(b)**

**Allegation (B) Force: Officers struck § 87(2)(b) with a baton.**

## Known facts and general descriptions

The victim could not be identified by the investigation and no statement was obtained.

On June 3, 2020, at approximately 9:05 p.m., § 87(2)(b) was in his apartment, located at § 87(2)(b) in Manhattan (BR 4). § 87(2)(b)'s apartment is located on the § 87(2)(b) floor and the window faced forward, onto 50<sup>th</sup> Street. At the time, it was dark outside and was raining heavily. § 87(2)(b) heard yelling and heavy footsteps outside, so he went to his window to see what happened. § 87(2)(b) observed a male running west on 50<sup>th</sup> Street, from 3<sup>rd</sup> Avenue toward Lexington Avenue. He ran on the sidewalk, on the south side of 50<sup>th</sup> Street, § 87(2)(b). At least three or four officers chased after the individual, though there may have been additional officers. § 87(2)(b) could not provide a description of any of the officers involved. They might have been dressed in uniform. The male was possibly white, seemed young, and had a medium build. § 87(2)(b) was unable to provide further descriptive details or identifying information for the individual.

The individual ran for a few seconds before PO1, whom § 87(2)(b) could not describe, tackled the individual from behind and brought him down via his center of gravity. § 87(2)(b) did not recall which part of the individual's body PO1 made contact. § 87(2)(b) was not sure how the individual landed but PO1 fell onto the ground with him. § 87(2)(b) could not specify how PO1 fell with the individual. One or two additional officers then piled atop the individual. § 87(2)(b) could not provide additional details about this physical encounter. While the individual was on the ground, he did not seem to move his body around. At least two officers, possibly more, then struck the individual with their batons, while the individual lay face down on the sidewalk. The officers who struck the individual stood on either side of him, and repeatedly struck his upper body. He observed officers strike the individual with their batons for a few seconds. Officers then used zip ties to handcuff the individual while he laid on the sidewalk. The individual did not appear to move. § 87(2)(b) then walked away from his window and did not see what happened to the individual after he was restrained with zip ties.

§ 87(2)(b) recorded part of the incident from his apartment § 87(2)(b). The video runs for a

total of 9 seconds. The video did not capture the FADOs alleged. In the video, it is dark outside and difficult to see, based upon the vantage point. Three uniformed officers, wearing helmets, are crouched over § 87(2)(b). At least one to two additional uniformed officers are present. The officers' faces are not visible, and it is impossible to distinguish any physical details. The individual appears to be a white male wearing dark shorts, dark socks, and grey or lighter colored sneakers. The male is lying face down and his face is not visible.

Three videos were obtained from cameras outside of § 87(2)(b) in Manhattan (BR 6-8). The first video appears to toggle between color and black and white. The video is dark and blurry. The video does not appear to capture the incident. The second video is in color. The video does not appear to capture the incident. The third video is in color but is dark and blurry. The video does not appear to capture the incident.

Surveillance video from § 87(2)(b), was obtained by the investigation (BR 9). The video is in color and there is no audio. At the 05:23 mark, § 87(2)(b) ran from the street to the sidewalk, and past § 87(2)(b). He appeared to be chased by two individuals, and a few additional individuals run by shortly thereafter. Given that it was dark, and it was raining outside, it is unclear what the individuals are wearing, or whether any are police officers. Officers and protestors continually walk by and the lights of police vehicles are visible.

## **BWC**

No BWC or TARU were found in regards to this complaint.

## **NYPD Documents Reviewed**

NYPD documents were obtained from case § 87(2)(g) because the incidents occurred in similar location and time. Memo books were obtained for Lt. Equashia Allen, Sgt. Alexis Alvarez, PO Hakim Constantine, PO Luis Cruz, Sgt. Stephen Frappier, Lt. David Johnson, Lt. Allen Kirmss, Sgt. Joseph Leonard, Lt. Frederico Martinez, Lt. Patrick O'Neill, Sgt. Garry O'Reilly, Sgt. Joseph Deallaume, Sgt. Iran Lopez Maceda, Lt. David Vasquez, and Sgt. Christopher Zappoli based on their noted posts in the PBMS detailed roster (BR 15,16). Lt. Kirmss, Lt. O'Neill, and Lt. Vasquez appeared to have entries that could pertain to the incident. Memo books for Lt. Kirmss stated mass arrest of multiple protestors in violation of curfew at East 50th Street and 3rd Avenue. However, the arrests occurred two hours before the incident time. Lt. O'Neill's memo book stated, East 51st Street and 3rd Avenue, large protest southbound on 3rd Avenue. Assisted in 1 arrest. The memo books did not contain any additional relevant information and occurred before the incident time. Lt. Vasquez memo book entries stated: 18:39 -- redirected to Gracie mansion, 88th Street and East End Avenue; 22:01 -- redirected to 17th Precinct, 51st Street and 3rd Avenue, bringing over 7 arrests for C summonses. However, Lt. Vasquez was redirected to 51<sup>st</sup> Street and 3<sup>rd</sup> Avenue after the incident was alleged to occur and would not have been present when the force was alleged.

The command log from the 17th Precinct did not list any arrests that appear to match the incident location (BR 10). The summons log from the 17<sup>th</sup> Precinct was obtained and showed that 29 summonses were issued, but, given generic narratives and locations that were in the vicinity but did not match this precise incident location the investigation was unable to determine if any summonses were linked to the victim in this complaint (BR 11). TRIs were obtained from June 3, 2020 but were unrelated to the incident (BR 12). The PBMS detailed roster was obtained from case # 202003874 (BR 13). Although, there were dozens of officers assigned to the protest detail in the general incident vicinity, it did not identify any post locations near East 50<sup>th</sup> Street between

Lexington and 3<sup>rd</sup> Avenue. The stop and frisk report/log (UF250) was obtained from the 17<sup>th</sup> and 26<sup>th</sup> Precincts and did not show any documented stops (BR 14). No additional police documentation was identified as pertaining to this incident.

Stationhouse footage was obtained from the 17<sup>th</sup> Precinct in regards to case #§ 87(2)(g) [REDACTED]. From time stamp 05:00:00-05:10:00 (approximately 9:00pm-9:10pm), nobody was brought into the stationhouse. From time stamp 06:00:00-07:00:00 (approximately 10:00pm-11:00pm), 12 screenshots of males were taken during this time frame. Nobody in the footage matched the civilian's attire as captured in § 87(2)(b)'s cell phone video.

### **Concurrent Investigations**

There were no concurrent investigations. § 87(2)(g) [REDACTED]

(BR 18).

### **Ranking Officers**

The PBMS detailed roster was obtained in regards to the protest detail. However, given the number of ranking officers assigned to the protests in the same vicinity of the incident location, it could not be determined which officers were present with the information available.

### **Officers Interviewed**

No officers were interviewed in regards to this complaint.

§ 87(2)(g) [REDACTED]

### **Civilian and Officer CCRB Histories**

- This is the first CCRB complaint to which § 87(2)(b) [REDACTED] has been a party (BR 18).

### **Mediation, Civil and Criminal Histories**

- This complaint was not suitable for mediation.
- § 87(2)(b) [REDACTED]

As of August 27, 2020, the New York City Office of the Comptroller has no record of a Notice of Claim being filed in regards to this complaint (BR 20).

Squad No.: 6

Investigator: Julia Moran Inv. Julia Moran 11/18/2020

**CCRB Case # 202004051**

Signature

Print Title & Name

Date

Squad Leader: Jessica Peña IM Jessica Peña 11/18/2020  
Signature Print Title & Name Date

Reviewer: \_\_\_\_\_  
Signature Print Title & Name Date